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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,124	04/02/2004	Glenn A. Morten	08223/1200330-US2	1508

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EXAMINER	
JOHNSON, CARLTON	
ART UNIT	PAPER NUMBER
2136	

MAIL DATE	DELIVERY MODE
02/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/817,124	**Applicant(s)** MORTEN ET AL.	
	Examiner Carlton V. Johnson	**Art Unit** 2136	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on ___. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): ___.
6. ☐ Newly proposed or amended claim(s) ___would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: ___.
   Claim(s) objected to: ___.
   Claim(s) rejected: *1-20*.
   Claim(s) withdrawn from consideration: ___.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: ___.

Continuation of 11. does NOT place the application in condition for allowance because:
Response to Arguments

The Benaloh and Cooper prior art combination discloses the capability for multiple watermarking of content or the capability to add an additional watermark to previously watermarked content. Multiple watermarking of content can be used to indicate each entity that accessed the media content. (see Cooper paragraph [0249], lines 10-15; paragraph [0198], lines 9-11; paragraph [0198], 19-22: multiple watermarks: one watermark for user; one watermark for content provider (market participant))

The Benaloh prior art qualifies the stated procedure but does not discredit or discourage the usage of a watermarking or fingerprint procedure for the protection of content. The marking of each copy is "less than ideal" but the Benaloh prior art does not discourage or discredit this approach. In any event, the Benaloh prior art still discloses a watermark or fingerprint procedure for a partition which is a portion of content such as the black frames of media stream. This is still watermarking or fingerprinting the content as per claim limitation.
The Benaloh prior art has a specific approach to assist in identification at decryption or playback for the protection of content.

The Benaloh prior art discloses a content key and a device (public/private) key. These are two encryption keys utilized in the protection of the content. The content key is utilized to encrypt the content. The device (public/private) key is utilized to wrap the content and the keys. (see Benaloh col. 2, lines 13-16) In addition, the device (public/private) key is an identifier for the entity, content player, or end user.

The Benaloh prior art device key is utilized to identify the particular device that decrypted the content as per claim limitation. (see Benaloh col. 2, lines 21-26: identify content player (entity decrypting content) The device key is utilized to generate a watermark or fingerprint. (see Benaloh col. 2, lines 13-16: key associated with player, end user, or market recipient) And, the Cooper prior art discloses the usage of an encryption key in the watermarking of content. (see Cooper paragraph [0121], lines 1-8)

The rejection to each independent and dependent claim includes a citation from the referenced prior art that discloses the basis for the rejection. Each obviousness combination clearly indicates the claim limitation the combined reference prior art teaches. In addition, a cited passage from the referenced prior art clearly indicates the motivation for the obviousness combination. Each obviousness combination's disclosure is equivalent to the Applicant's claimed limitation(s) for the claimed invention.

All of the referenced prior art is in the same field of endeavor and a search by one skilled in the art would have returned the referenced prior art within the set of returned prior art.

The Office Action states the disclosures within the Benaloh and Copper prior art combination discloses the stated claim limitations. (see Benaloh col. 6, lines 25-27: serial number, identify content player, decrypting content: identifier for a content player, end user; col. 8, lines 49-50; col. 11, lines 55-62; col. 9, lines 8-11: watermark, fingerprint: wrap encrypted content; col. 10, lines 20-28; col. 12, lines 10-14: transfer encrypted content to user (network, medium): forward wrapped content to end user)

The examiner has considered the applicant's remarks concerning a method and device are directed to uniquely identifying content in a highly distributed content delivery system such that an origin of unauthorized content use may be more accurately determined. And, decrypted content is fingerprinted or watermarked by a fingerprint and watermark module such that a recipient of content is identifiable, and saved in a separate database. A key wrap module wraps and attaches aggregator's encryption key to the content before it is transmitted to downstream service operators or users. Applicant's arguments have thus been fully analyzed and considered but they are not persuasive.

After an additional analysis of the applicant's invention, remarks, and a search of the available prior art, it was determined that the current set of prior art consisting of Benaloh (7,065,216) and Cooper (20010051996) discloses the applicant's invention including disclosures in Remarks.

Proposed Amendments:
The proposed amendments will not be entered since the amendments (new claim limitations) have changed the scope of independent claim 12 and would require further consideration and an additional search.

NASSER MOAZZAMI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

2/8/06